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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,077	10/26/2000	Hideyuki Kimura	107714	1563

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

EXAMINER

PATTERSON, MARC A

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 12/29/2003

17

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/674,077

Applicant(s)

KIMURA ET AL.

Examiner

Marc A Patterson

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1-6 and 12-14.Claim(s) withdrawn from consideration: none.

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See attached.

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ADVISORY ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112 second paragraph rejections of Claims 6 and 13 – 14, of record on page 2 of the previous Action, are withdrawn.

REPEATED REJECTIONS

2. The 35 U.S.C. 102(b) rejection of Claims 1 – 2 as being anticipated by Suzuki et al (Japanese Patent No. 6246777), of record on page 3 of the previous Action, is repeated.

The 35 U.S.C. 103(a) rejection of Claims 3 – 6 and 12 – 14 as being unpatentable over Suzuki et al (Japanese Patent No. 6246777) in view of Asahi Chemical (Japanese Patent No. 03286815), of record on page 4 of the previous Action, is repeated.

ANSWERS TO APPLICANT'S ARGUMENTS

3. Applicant's arguments regarding the 35 U.S.C. 112 second paragraph rejections of Claims 6 and 13 – 14, of record on page 2 of the previous Action, have been considered and have been found to be persuasive. The rejections are therefore withdrawn.

Applicant's arguments regarding the 35 U.S.C. 102(b) rejection of Claims 1 – 2 as being anticipated by Suzuki et al (Japanese Patent No. 6246777) and 35 U.S.C. 103(a) rejection of Claims 3 – 6 and 12 – 14 as being unpatentable over Suzuki et al (Japanese Patent No. 6246777) in view of Asahi Chemical (Japanese Patent No. 03286815), of record in the previous Action, have been carefully considered but have not been found to be persuasive for the reasons set forth below.

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Applicant argues, on page 8 of Paper No 17, that Suzuki et al fail to disclose a cylindrical molded body having a mark of an injection gate opening positioned on its inner surface, wherein the mark is positioned at the inner surface while being inwardly apart from the upper end of the insert in an axial direction and at a position corresponding to a position on the inner surface that is covered by the insert; the mark of the injection gate, Applicant argues, is situated on the inside of the portion of the threading for accommodating a screw cap. However, the portion for accommodating a screw cap (portion '102d' in Figure 2) is clearly a cylindrical portion of the container, and is therefore a cylindrical molded body. The mark of the injection gate is therefore on the inside of the cylindrical body.

Applicant also argues, on page 9, because the blank board on the is positioned below the throat of the container, and the gate marks are located at the throat, the gate marks cannot be said to be at a position corresponding to a position on the inner surface that is covered by the insert. However, the gate mark is located at a position that corresponds to a position on the inner surface that is covered by the insert, because it is from this position that resin is sent through the mold to create the entire surface that is covered by the insert. Correspondence therefore exists between this position and a position on the inner surface that is covered by the insert. Furthermore, as stated on page 3 of the previous Action, the scope of the claims falls within the limitations of Suzuki et al as discussed above. The method of making the cylindrical body (product – by – process), and the position of the marks which result from the method, are given little patentable weight.

Applicant also argues, on page 10, that the limitations regarding the gate marks are structural features, and should be given as much weight as possible. However, the gate marks

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are features that could only result if the article were made by injection molding, and therefore correspond to a single method of making the article.

Applicant also argues, on page 10, that Asahi Chemical does not teach a position at which resin should be injected in an injection molding process. However, as stated on page 5 of the previous Action, Asahi Chemical teaches that thermoplastic resins are equivalent to thermosetting resins in the making of a container for the purpose of making a container having a good appearance (English Abstract). The desirability of providing for a thermosetting resin in Suzuki et al, which is a container, would therefore be obvious to one of ordinary skill in the art.

It therefore would have been obvious for one of ordinary skill in the art at the time Applicant's invention was made to have provided for a thermosetting resin (therefore a resin which is cured) in Suzuki et al in order to make a container having a good appearance as taught by Asahi Chemical.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Patterson, whose telephone number is (703) 305-3537. The examiner can normally be reached on Monday through Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by phone are unsuccessful, the examiner's supervisor, Harold Pyon, can be reached at (703) 308-4251. FAX communications should be sent to (703) 872-9310. FAXs received after 4 P.M. will not be processed until the following business day.

Marc A. Patterson, PhD.

Marc Patterson
Art Unit 1772

Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
HP

12/23/03